

**PUBLIC**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**The Kroger Company,**

and

**Albertsons Companies, Inc.,**  
Respondents.

**Docket No. 9428**

**SECOND UNOPPOSED MOTION OF NON-PARTY HERITAGE GROCERS  
COMPANY, LLC FOR EXTENSION OF TIME TO MOVE TO QUASH OR LIMIT  
SUBPOENA**

Non-party Heritage Grocers Company, LLC (“Heritage”), by and through its undersigned counsel, hereby moves, pursuant to Rules 3.22, 3.34, and 4.3 of the Federal Trade Commission’s (“FTC”) Rules of Practice for Adjudicative Proceedings, for an extension of time, to move to quash or limit or otherwise respond to the subpoena duces tecum (“Subpoena”) served by Complaint Counsel for the FTC in the above-captioned proceeding on April 9, 2024. Complaint Counsel agrees with the relief requested in this motion.

By order dated May 1, 2024, the time for Heritage to file a motion to quash, limit, or otherwise respond to the Subpoena was extended to May 10, 2024. Negotiations between Heritage and Complaint Counsel as to the scope of Heritage’s production has been productive and is ongoing. Heritage requests a 14-day extension of the deadline for Heritage to move to limit or quash or otherwise respond to the Subpoena so that Heritage and Complaint Counsel can continue to negotiate and thereby eliminate or narrow any issues that need to be presented to the Court for resolution.

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Pursuant to the March 20, 2024 Scheduling Order, the close of discovery is June 11, 2024 and the Hearing will commence on July 31, 2024. Heritage does not believe the requested extension will delay the progress of any discovery in these proceedings. And, Complaint Counsel has agreed through written correspondence that they agree with the relief requested in this motion.

**WHEREFORE**, for good cause shown, Heritage respectfully requests that Your Honor grant the requested relief and extend to May 24, 2024, Heritage's deadline to respond to the Motion, pursuant to 16 C.F.R. § 4.3(b).

\* \* \*

Dated: May 10, 2024

Respectfully submitted,

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*Counsel for Heritage Grocers Company, LLC*

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**Docket No. 9428**

**[PROPOSED] ORDER GRANTING SECOND UNOPPOSED MOTION FOR  
EXTENSION OF TIME**

On May 10, 2024, non-party Heritage Grocers Company, LLC (“Heritage”) filed a second motion to extend its time to move to quash or limit the subpoena (“Subpoena”) issued by Complaint Counsel on April 9, 2024 (“Motion”). Complaint Counsel does not oppose the relief requested in the Motion.

Under FTC Rule of Practice 3.34(c), any motion to limit or quash a subpoena must be filed within 10 days of receipts of the subpoena. 16 C.F.R. § 3.34(c). Pursuant to FTC Rule 4.3(b), the Administrative Law Judge, except in circumstance not here presented, may extend any time limit prescribed by the rules “[f]or good cause shown.” 16 C.F.R. § 4.3(b).

Based on the representation in the Motion, Heritage has demonstrated good cause for the requested extension. Accordingly, the Motion is GRANTED. It is hereby ORDERED that Heritage’s deadline to file a motion to quash or limit or otherwise respond to the Subpoena is extended to May 24, 2024.

ORDERED:

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D. Michael Chappell

Chief Administrative Law Judge

Date: May , 2024

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### **CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2024, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor  
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The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I also certify that on May 10, 2024, I caused the foregoing document to be served via email to:

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